

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

JOHNSON CONTROLS TECHNOLOGY	)	
COMPANY,	)	
	)	
Plaintiff,	)	C.A. No. 20-521-MN
	)	
v.	)	<b>JURY TRIAL DEMANDED</b>
	)	
BUILDINGIQ, INC.,	)	
	)	
Defendant.	)	

**MOTION FOR PERMISSION TO WITHDRAW AS COUNSEL**

Pursuant to Local Rule 83.7, Richards, Layton & Finger, P.A. (“Richards, Layton & Finger”) moves this Court for an Order permitting it to withdraw as counsel for Defendant BuildingIQ, Inc. (“BuildingIQ” or “Defendant”) in this matter. In support of this motion, counsel states as follows:

1. Richards, Layton & Finger was initially contact by Carlson Caspers to serve as Delaware counsel to BuildingIQ. Carlson Caspers later withdrew as counsel to BuildingIQ (D.I. 31) and was replaced by Handal & Morofsky, LLC (D.I. 30). Handal & Morofsky intends to remain as lead counsel for BuildingIQ.

2. Where counsel seeks to withdraw without replacement Delaware counsel, the Court should exercise its discretion in deciding whether to permit the withdrawal. *Sharp v. Verizon Delaware Inc.*, 2012 WL 6212615, at \*2 (D.Del. Dec. 12, 2012). There are no set factors the Court must consider as the interests may vary widely from case to case. *Ihntrip v. Makina Ve Kimya Endustrisi Kurumu*, 760 F.3d 290, 294-295 (3d Cir. 2014).

3. Pursuant to ABA Model Rule of Professional Conduct 1.16, a lawyer may withdraw from representing a client where, *inter alia*, good cause exists. Model Rule 1.16(c). Richards,

Layton & Finger respectfully submits that its request to withdraw is supported by Model Rule 1.16. There has been a breakdown in the attorney-client relationship between Richards, Layton & Finger and BuildingIQ. Richards, Layton & Finger is obligated to maintain Defendant's confidential information, and therefore is not revealing factual details of the basis for their motion in these papers. *See* Model Rule 1.6 ("A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent"); *see also* Model Rule 1.16, comment 3 (stating in relevant part, "The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient.").

4. If the Court instructs Richards, Layton & Finger to provide further factual details concerning the issues with ongoing representation, counsel respectfully request that they be permitted to submit additional details *in camera*, in order to protect Defendant's confidential information.

5. Richards, Layton & Finger and BuildingIQ agreed on April 26, 2021 that BuildingIQ would find substitute Delaware counsel. Despite this agreement, BuildingIQ has not authorized the substitution of counsel. Richards, Layton & Finger has asked Building IQ whether it opposes withdrawal on several instances and BuildingIQ has declined to provide its position.

6. Pursuant to Local Rule 83.7, this Motion is being served on BuildingIQ by certified mail at its last known address. Additional copies of this motion have been sent to BuildingIQ by electronic delivery. In addition, a draft motion that was substantially similar to this motion was provided to BuildingIQ by e-mail on May 24, 2021.

7. Counsel has conferred with Plaintiff Johnson Controls Technology Company concerning this motion, and Johnson Controls Technology Company does not oppose this motion but advises it will oppose any extension of time requested as a result of the withdrawal.

WHEREFORE, Richards, Layton & Finger respectfully requests that this Court enter an Order in the form attached hereto permitting Richards, Layton & Finger to withdraw as counsel to Defendant BuildingIQ, Inc.

/s/ Kelly E. Farnan

Kelly E. Farnan (#4395)

Valerie A. Caras (#6608)

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Dated: June 11, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that on June 11, 2021, true and correct copies of the foregoing document was filed with the Court using CM/ECF and additional copies were caused to be served on the following as indicated:

**BY E-MAIL**

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/s/ Kelly E. Farnan

Kelly E. Farnan (#4395)